



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO 80204

Reply to
Attn. of:

SP 94-C-38

NOV 8 1993

Subject:

National School Lunch Program, Afterschool Meal Supplement Service

To:

STATE AGENCY DIRECTORS
(Special Nutrition Programs)

- Colorado ED, Iowa, Kansas, Missouri ED,
Montana OPI, Nebraska ED, North Dakota,
South Dakota, Utah, Wyoming ED

P.L. 101-147 authorized the service of meal supplements in schools providing afterschool child care, and a final rule, implementing this change in the Regulations by amending 7 CFR Parts 210, 235 and 245, was published in the Federal Register on August 10, 1993.

Please note that this change can affect only those schools operating the National School Lunch Program (NSLP) which were also serving meal supplements in the Child and Adult Care Food Program (CACFP) in afterschool care programs they were operating as of May 15, 1989. The purpose of the amendment, as has been emphasized previously, is to reduce the paperwork burden for those schools which meet this qualification and which operate the CACFP in afterschool care programs they sponsor and operate. The elimination of the "May 15, 1989" qualification for participation, in order to permit any school to claim reimbursement for meal supplements served in afterschool care programs operated by the school, must be accomplished through a change in the Federal legislation which governs administration of the NSLP.

The Report of School Program Operations, Form FNS-10, is already revised to collect the afterschool meal service data. The agreement between the State agency and any qualifying school food authority must be revised prior to the participation of such school food authority in this component of the NSLP.

Contact this office if you have additional questions concerning afterschool meal service.

Ann C. Hector

ANN C. HECTOR
Regional Director
Special Nutrition Programs

Attachment

Rules and Regulations

Federal Register

Vol. 58, No. 152

Tuesday, August 10, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 235 and 245

Meal Supplements in the National School Lunch Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for the National School Lunch Program (NSLP), to authorize reimbursement under NSLP for meal supplements served in afterschool care programs operated by schools that were participating in the Child and Adult Care Food Program (CACFP) as of May 15, 1989. This rule establishes the requirements that apply to the contents of the meal supplements and also defines eligible children and schools. This rule also incorporates the appropriate technical references to meal supplements.

EFFECTIVE DATE: September 9, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, or Mr. Charles Heise, Child Nutrition Division, USDA, 3101 Park Center Drive, room 1007, Alexandria, Virginia 22302, telephone (703) 305-2620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of \$100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries,

Federal, State or local government agencies, or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. The NSLP is listed in the Catalog of Federal Domestic Assistance under No. 10.555 and is subject to the provisions of Executive order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V and final rule related to notice at 48 FR 29114, June 24, 1983.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the National School Lunch Program, the administrative procedures are set forth in the following regulations: (1) School food authority appeals of State agency findings as a result of a Coordinated Review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q); (2) school food authority appeals of FNS findings as a result of a Coordinated Review must follow FNS hearing procedures as established pursuant to 7 CFR 210.30(d) (3); and State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow the FNS Administrative Review Process as established pursuant to 7 CFR 235.11(f).

Information Collection

This final rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Meal Supplements in the National School Lunch Program.

Description: This provision will enable respondents to realize a substantial reduction in the overall burden associated with providing supplements to children enrolled in afterschool care programs. While this estimated burden represents an increase in the total burden approved by OMB for the National School Lunch Program, The Department emphasizes that the actual burden on respondents will be less than is presently the case. These respondents are participating in the Child and Adult Care Food Program and, as a consequence, must make separate applications, maintain separate agreements and submit separate claims for that program. If these respondents participate under the National School Lunch Program, they will be authorized to claim reimbursement for supplements under the permanent agreement for that program, and their claims will simply be an addendum to the existing claim for other meals. Therefore, respondents will experience some decrease in the burden associated with these aspects of program administration. Moreover, this final regulation reduces from six to two the number of annual visits which respondents must make to each of their sites. It should also be noted that the Department is reducing the overall burden associated with the Child and Adult Care Program to reflect the shift of these respondents to the National School Lunch Program.

Description of Respondents: School food authorities.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

7 CFR section	Annual number of respondents	Annual frequency	Average burden per response	Total annual burden
226.16(d):				
Existing	241	6	1.44	2,082
Final rule	xx0	xx0	xxx0	xxxx0
210.9(c):				
Existing	xx0	xx0	xx0	xxxx0
Final rule	241	2	1.44	694

As required by section 3504(h) of the Paperwork Act of 1980 (44 U.S.C. 3504 (h)), this rule was approved by OMB. The information collection requirements of 7 CFR part 210, are OMB Nos. 0584-0006. These requirements have been approved by OMB for use through September 30, 1994.

Organizations and individuals who desire to comment on these requirements, including suggestions for reducing the reporting and recordkeeping burdens, should direct them to the Policy and Program Development Branch, Child Nutrition Division (address above) and to the Office of Information and Regulatory Affairs, OMB, room 3208, New Executive Office Building, Washington, DC, 20503. Attn: Laura Oliven, Desk Officer for FNS.

Background

Section 106(a) of the Child Nutrition and WIC Reauthorization Act of 1989, Public Law 101-147, enacted November 10, 1989, added section 17A (42 U.S.C. 1766a) to the National School Lunch Act (NSLA), authorizing elementary and secondary schools to be reimbursed by the Department for meal supplements as part of the National School Lunch Program (NSLP) if they meet the following requirements: (1) Operate school lunch programs under the NSLA; (2) sponsor afterschool care programs; and (3) were participating in the Child and Adult Care Food Program (CACFP) as of May 15, 1989. Section 106(a) also set forth the requirements applicable to the contents of the meal supplements, defined which children would be eligible for the supplements and specified the rates at which schools would be reimbursed for providing the supplements.

Currently, schools participating in the NSLP that also offer meal supplements to children enrolled in afterschool care programs do so through the CACFP. Under previous law, such schools had to submit separate applications and claims and maintain separate records for participation in the two programs. In an effort to reduce the paperwork burden for officials in these schools, Congress

amended the NSLA as noted above. On July 2, 1991, the Department published a proposed rule in the Federal Register at 56 FR 30339-30342 which would implement this provision and make appropriate technical references to meal supplements in 7 CFR parts 210, 235, and 245. That proposal provided for a 75 day public comment period, which closed September 16, 1991. During the public comment period, 22 predominately favorable comments were received. The commenters represented 10 State agencies as well as other state representatives and professional groups. The remainder of this preamble discusses the issues raised by commenters.

Limitation on Schools' Eligibility

Under the proposed meal supplements rule, schools operating afterschool care programs under the CACFP may be reimbursed for meal supplements as part of the NSLP if they meet the following requirements: They operate school lunch programs under the NSLA; they sponsor afterschool care programs; and they were participating in the CACFP as of May 15, 1989. Most commenters took issue with the proposal to limit eligibility to those schools participating in the CACFP as of May 15, 1989. These commenters recommended extending this consideration to all schools offering afterschool care programs. However, as noted in the legislative report accompanying Public Law 101-147 (H.R. Rep. No. 194, 101st Cong., 1st Sess. 5-6), the House Committee on Education and Labor was unable to authorize all schools participating in the NSLP to exercise this option because of the constraints imposed by the Fiscal Year 1990 Budget Resolution. Due to the statutory nature of this provision, the Department is not at liberty to extend this consideration to schools that did not participate in CACFP until after that date.

Additionally, several commenters requested that eligibility be expanded to include all schools serving midmorning or afternoon snacks and to other programs that serve snacks to enrolled

children, such as Head Start. The Department wishes to emphasize that this provision is applicable only to schools operating afterschool care programs. The Department has no authority to provide reimbursement for supplements under the NSLP if they are served during the school day. Consequently, programs such as Head Start which operate in school settings and wish to be reimbursed for midmorning or midafternoon snacks must continue to participate in the CACFP. Moreover, the statute does not permit the NSLP to be extended to afterschool care programs operated in nonschool settings. This provision was intended to be a paperwork reduction measure for schools participating in both the NSLP and CACFP and not a blanket extension to other entities involved in afterschool care programs. Thus, the provision to allow only those schools operating afterschool care programs under the CACFP as of May 15, 1989 to be reimbursed for snacks under NSLP is being incorporated as proposed.

Definition of Afterschool Care Program

In § 210.2 of the proposed rule, the Department defined an afterschool care program to be a "program providing organized child care services to enrolled school age children after school hours for the purpose of care and supervision of children. Those programs shall be distinct from any extracurricular programs organized primarily for scholastic, cultural or athletic purposes". This definition was adopted from the CACFP definition in 7 CFR 226.2 of "outside school hours care center" in order to maintain consistency between the two programs. One commenter expressed concern that this definition excluded some programs that are not defined as "providing child care". Another commenter expressed dissatisfaction with the exclusion of "afterschool programs organized for scholastic, cultural or athletic activities", since these types of programs also offer "child care services" and with older children this type of

afterschool activity is more socially acceptable. The commenter also recommended, however, that children should be in care for two hours at a minimum after normal hours in order for the school to be eligible to claim reimbursement for meal supplements served to that child. In addition, one commenter noted that the definition of afterschool care program in the proposed regulation did not specify any licensing requirements and felt that the final rule should address this issue.

The Department does not feel that it is appropriate to adopt a licensing requirement for the NSLP. All schools must satisfy State and local health and safety codes in order to operate legally as a school. The Department feels that Congress clearly limited the scope of this provision to schools offering afterschool care programs as defined above and did not intend to extend the program to bring other kinds of afterschool care situations into the NSLP. Moreover, the Department notes that no time limitation is applied to outside school hour care situations in the CACFP. Since the purpose of the statutory provision is to maintain the status quo for service of supplements while reducing paperwork for schools, the Department does not consider a time restriction to be appropriate. Therefore, the Department will adopt as proposed the definition of afterschool care programs.

Definition of Child

A number of commenters were not supportive of the definition of eligible child in § 210.2 of the proposed regulation. The proposal specified that, for purposes of reimbursement for meal supplements in afterschool care, an eligible child must be 12 years of age or under, or, in the case of children of migrant workers and children with handicaps, not more than 15 years of age. The commenters generally believed that this definition was too exclusive and would eliminate several groups of students from participation. One commenter noted that the proposed definition of "child" also could be interpreted to include a child from birth through age 12 or 15, and not just school-age children.

The Department recognizes that some children enrolled in afterschool care programs may not be eligible because they do not meet the proposed age limitations. However, since these age limits are stipulated in the legislation, the Department has no authority to expand eligibility to all enrolled children regardless of age. The Department notes, moreover, that children older than 12 (15 if they are the

children of migrants or, under certain circumstances, older children with handicaps) are not currently eligible for reimbursable meals under CACFP. However, the Department considers that meals served to infants and other children not yet of "school-age" may be reimbursed, provided these children are enrolled in the afterschool care program. As noted above, in the proposed rule the Department adopted the CACFP definition of outside-school-hours care centers for NSLP afterschool care programs, and the CACFP definition includes a reference to "school-age children." As a practical matter, the Department believes the term, itself, has meaning only when applied to children who are enrolled in school. Nevertheless, the Department can envision situations in which infants and preschool children may be enrolled in afterschool programs primarily designed for school-age children. In these situations, the Department considers it only reasonable to allow reimbursement for supplements served to nonschool-age children. The Department emphasizes, however, that this consideration can be extended only so long as these younger children are in an afterschool care program intended for school-age children. As noted above, the Department has no authority to reimburse meals served in other day care situations.

One commenter also noted an inconsistency between the definition of "child" in this proposal and that in the CACFP. (The proposal limits eligibility for children with handicaps to age 15 or less, whereas there is no age limitation for children with handicaps in the CACFP.)

The Department is aware of this discrepancy. However, the proposed age limit for NSLP, including the limitation for children with handicaps, has been taken directly from the law. Therefore, due to the statutory nature of this provision, the Department is adopting the proposed definition of "child."

Point of Service Counts

The Department proposed in § 210.9(c)(8) that the point of service count requirement for the lunch program would not be required for snacks served in afterschool care programs operated by eligible schools. However, schools would still be responsible for making accurate counts of the number of free, reduced price and paid meal supplements served to children. A number of commenters addressed the issue of point of service counts and argued that such counts should be required by the program regulations. The Department recognizes

the concern of one commenter that accountability not be compromised. The Department clearly intended that schools maintain accurate counts of the number of free, reduced price and paid meal supplements served to children. However, in recognition of the logistics involved in afterschool care programs, the Department does not believe it is appropriate to require point of service counts and, for this reason, is adopting the proposed provision. Of course, States may, if they wish, require point of service counts. The Department wishes to emphasize that there must be a system in place that yields accurate counts of the number of meals claimed by type without overt identification of children receiving free or reduced price meals.

Monitoring

The Department proposed in § 210.9(c)(7) to require school food authorities to visit each of their afterschool care sites two times each year. The first visit was required to be made within the first four weeks of the school year. As noted in the preamble to the proposed rule, Senator Leahy indicated that the Senate Agriculture Committee believed that monitoring requirements for school food authorities acting as sponsors of afterschool care programs should be reduced to no more than three visits a year, as opposed to the six annual visits which other outside-school-hours sponsors must make to their sites under the CACFP. Given this direction, the Department proposed reducing the number of visits school sponsors must make from six to two, one less than suggested by Congress.

While the proposed monitoring requirement was generally well received by commenters, some commenters believed that even this degree of monitoring would be excessive, noting that only one visit before February 1 is required for the NSLP. Other commenters, while agreeing with the number of visits, objected to having to complete the first visit within the first four weeks of the school year, and one commenter specifically suggested combining the first visit to the afterschool care program with the monitoring visit of the lunch program required in § 210.8(a)(1). The Department recognizes these concerns. However, the Department continues to believe that the supplement portion of the NSLP will usually need to be monitored more frequently than the lunch portion due to the likelihood that the service of supplements would not be done directly by food service personnel familiar with food service operations.

under the NSLP and will generally not be administered in school cafeterias. Therefore, while the Department believes that monitoring of these programs in schools need not be as intensive as the monitoring of programs in nonschool sites, the Department does not believe that fewer than two visits per year could be justified. For the same reason, the Department continues to believe that the first monitoring visit must be made during the first four weeks of the school year that the school is actually in operation. The Department agrees, however, that at least one of the visits for meal supplements may be done in conjunction with any other monitoring visit, such as the one on-site visit required before February 1 for the lunch portion of the NSLP, thus reducing administrative burden. Therefore, the monitoring provision is being adopted as proposed.

As a final note, one commenter expressed concern over how the first four-week requirement would affect schools that operate year-round programs. The Department feels that during the first year of serving supplements under NSLP, these particular schools should be monitored in the same manner as all other afterschool care programs in schools, including a visit during the first four weeks of its initial year of operation. Thereafter, these schools should be monitored twice each school year. In addition, whenever there is a change in the food service personnel, the Department recommends that the school food authority schedule a monitoring visit as soon after the change as possible.

In order to clarify the application of the monitoring requirement to year-round programs, § 210.9(c)(7) of the final rule provides that an afterschool care program operating year-round shall be reviewed during the first four weeks of its initial year of operation, once more during the first year of operation, and twice a year thereafter. Section 210.9(c)(7) is further revised to make clear that for all other programs the first review is to be made within the first four weeks that the school is in operation each school year.

Reimbursement Method

Under § 210.7 of the proposed rule, reimbursement of meal supplements would have been made based on the eligibility of the child served. Commenters disapproved of this provision on the basis that afterschool care programs operating under CACFP generally utilize a claiming percentage or blended rate method for reimbursement and, thus, are not

encumbered by the free, reduced price and paid counting system which tracks money or tickets as in the NSLP. One commenter noted that, given the setting of the service of meal supplements, daily counts by category would be difficult. Additionally, another commenter felt that the choice of reimbursement method should be left to the discretion of the State agency. While the CACFP allows reimbursement according to claiming percentages or blended rates, the Department continues to believe that it is important to maintain consistency with the counting and claiming procedures established in the NSLP and School Breakfast Program (SBP), both of which, see 7 CFR 210.7(c) and 7 CFR 220.9(c), require the reporting of actual meal counts. The Department considers that using different claiming methods on the same form could create difficulties for States' reimbursement procedures. Therefore, the Department adopts, as proposed, the requirement that reimbursement for meal supplements be based on the status of the child—free, reduced price, or fully paying—who receives the meal.

Number of Supplements

Section 106(a) of Public Law 101-147 did not specify the number of supplements that may be reimbursed under the NSLP. However, the Department proposed in § 210.9(c)(6) to limit the number of reimbursable supplements to one per child per day.

One commenter believed schools should be allowed to serve and claim more supplements, particularly for children in care for long periods of time. This commenter felt that one supplement should be allowed for every 3 or 4 hours of participation in afterschool care. The Department believes that one supplement is adequate in the situation envisioned. Children in afterschool care would have received a lunch at school and would be receiving their evening meal at home. For this reason, the Department incorporates this provision into the final rule as proposed. As a final note on this issue, one commenter suggested that the limitation on meal supplements should apply to the number claimed for reimbursement not served as stated in the proposal. The Department intended the limitations to apply to reimbursable supplements. Schools may, if they wish, serve additional foods which are not claimed. In the interest of clarity, therefore, the Department is changing the term "served" in the proposed rule to "claimed for reimbursement" in § 210.9(c)(6) of this final rule.

Maximum Charge for Reduced Price Supplements

The proposed rule would have limited the maximum charge which a school could make for a reduced price supplement to 15 cents. As a result, the total amount of revenue which the school would receive from reimbursement and the child's payment would not equal the reimbursement for a free supplement, unlike the situation with lunches and breakfasts. One commenter was dissatisfied with this limitation on price, arguing that the difference between the cost of the meal and the revenue received could result in the quality of the supplement being compromised. The Department recognizes that, in some situations, this limitation could reduce revenue for some afterschool care programs. However, the Department feels that a higher charge for supplements could possibly discourage eligible children from participating and, therefore, does not support any increase in the maximum charge to participants at this time. The Department also believes the practical effect of this provision on afterschool care programs will be slight, at most. First, only a small number of institutions in the CACFP make separate charges for meals and would, therefore, be affected by the limitation on price. Moreover, the Department notes that in Fiscal Year 1990, less than 10 per cent of the snacks reimbursed under CACFP were served at a reduced price. For these reasons, the 15 cent maximum charge for reduced price snacks is adopted as proposed.

Meals Served on Minimum and Nonschool Days

One commenter requested that the rule be revised to permit schools to claim supplements served on minimum (i.e., short) days and on nonschool days. Currently in the CACFP, reimbursable meals served on minimum and nonschool days may be claimed, including snacks served in afterschool care situations. However, under the NSLP and SBP, lunches and breakfasts served on nonschool days may be reimbursed only if the activity is an integral part of the curriculum or actual extension of the local education system. The Department does not believe that afterschool care on nonschool days would fit into either category. The Department recognizes that afterschool care programs will frequently operate on shortened days, since adults will often be unable to pick children up early, or on days when school is not in session. The Department will authorize reimbursement for snacks served in

afterschool care programs in those situations when the regular school day has been shortened, because the additional nonschool time simply represents an extension of the afterschool care program. However, reimbursement cannot be authorized for snacks served on nonschool days, since these situations would actually constitute regular child care.

Miscellaneous Technical Changes

Finally, several technical changes have been incorporated into the meal supplement chart. The title of the first chart "Meal Supplement Chart for Children and Infants" will be changed to read "Meal Supplements for Children", since there is a separate chart for infant supplements. Additionally, one commenter recommended changing the wording in this chart to read "Select 2 different components from the 4 listed" in order to eliminate the possibility that 2 of the same items will be selected. The Department has adopted this recommendation. Secondly, a footnote concerning infant cereal on the infant supplement chart was inadvertently included and, therefore, will be deleted since infant cereal is not a supplement component.

The Department wishes to thank all commenters for taking the time to share their concerns and recommendations with us.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program, Grant programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 235

Food assistance programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Child and Adult Care Food Program, Food Distribution Program, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure.

7 CFR Part 245

Food assistance programs, Grant programs-social programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 210, 235 and 245 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for part 210 continues to read as follows:

Authority: The provisions of part 210 issued under Sec. 2-12, 60 Stat. 230, as amended; Sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751-1760, 1779.

2. In § 210.2:

a. A new definition, "afterschool care program" is added;

b. The definition of "child" is amended by removing the period at the end of the current definition, adding a semicolon and the word "or" in its place and adding a new paragraph (c). The additions read as follows:

§ 210.2 Definitions

Afterschool care program means a program providing organized child care services to enrolled school-age children afterschool hours for the purpose of care and supervision of children. Those programs shall be distinct from any extracurricular programs organized primarily for scholastic, cultural or athletic purposes.

*Child * * * (c) For purposes of reimbursement for meal supplements served in afterschool care programs, an individual enrolled in an afterschool care program operated by an eligible school who is 12 years of age or under, or in the case of children of migrant workers and children with handicaps, not more than 15 years of age.*

3. In § 210.4:

a. Paragraph (a) is amended by adding the words "and meal supplements" after the word "lunches" in the first sentence.

b. The title of paragraph (b)(1) is amended by adding the words "for lunches" at the end of the current title.

c. New paragraphs (b)(3) and (b)(4) are added to read as follows:

§ 210.4 Cash and donated food assistance to States.

(b) * * *

(3) *Cash assistance for meal supplements.* For those eligible schools (as defined in § 210.10(j)(1) of this part) operating afterschool care programs and electing to serve meal supplements to enrolled children, funds shall be made available to each State agency, each school year in an amount no less than the sum of the products obtained by multiplying:

(i) The number of meal supplements served in the afterschool care program within the State to children from

families that do not satisfy the income standards for free and reduced price school meals by 2.75 cents;

(ii) The number of meal supplements served in the afterschool care program within the State to children from families that satisfy the income standard for free school meals by 30 cents;

(iii) The number of meal supplements served in the afterschool care program within the State to children from families that satisfy the income standard for reduced price school meals by 15 cents.

4. The rates in paragraph (b)(3) are the base rates established in August 1981 for the CACFP. FNS shall prescribe annual adjustments to these rates in the same Notice as the National Average Payment Rates for lunches. These adjustments shall ensure that the reimbursement rates for meal supplements served under this part are the same as those implemented for meal supplements in the CACFP.

4. In § 210.6, the first sentence is amended by adding the words "and meal supplements" after the word "lunches".

5. In § 210.7:

a. Paragraph (a) is amended by adding the words "and meal supplements" after the word "lunches" in the second sentence and by adding a new sentence after the third sentence.

b. Paragraph (c) is amended by adding the words "and meal supplements" after the word "lunches" wherever it appears in the introductory text of paragraph (c), paragraphs (c)(1), (c)(1)(i) and (c)(1)(ii); by adding the words "and supplement" after the word "lunch" in paragraph (c)(1)(iv); and by adding the words "or for more than one meal supplement per child per day" at the end of paragraph (c)(1)(v).

c. A new paragraph (d) is added. The additions read as follows:

§ 210.7 Reimbursement for school food authorities.

(a) * * * Reimbursement payments shall also be made for meal supplements served to eligible children in afterschool care programs in accordance with the rates established in § 210.4(b)(3). * * *

(d) The State agency shall reimburse the school food authority for meal supplements served in eligible schools (as defined in § 210.10(j)(1) of this part) operating afterschool care programs under the NSLP in accordance with the rates established in § 210.4(b).

6. In § 210.8:

a. Paragraph (c) is amended by adding the words "and meal supplements" after

the word "lunches" wherever it appears in the text.

b. Paragraph (d) is amended by adding the words "and meal supplements" after the word "lunches".

7. In § 210.9:

a. Paragraph (b)(19) is amended by adding the words "and meal supplements" after the word "lunches".

b. A new paragraph (c) is added to read as follows:

§ 210.9 Agreement with State agency.

(c) Afterschool care requirements

Those school food authorities with eligible schools (as defined in § 210.10(j)(1) of this part) that elect to serve meal supplements during afterschool care programs, shall agree to:

(1) Serve meal supplements which meet the minimum requirements prescribed in § 210.10;

(2) Price the meal supplement as a unit;

(3) Serve meal supplements free or at a reduced price to all children who are determined by the school food authority to be eligible for free or reduced price school meals under 7 CFR part 245;

(4) If charging for meals, the charge for a reduced price meal supplement shall not exceed 15 cents;

(5) Claim reimbursement at the assigned rates only for meal supplements served in accordance with the agreement;

(6) Claim reimbursement for no more than one meal supplement per child per day;

(7) Review each afterschool care program two times a year; the first review shall be made during the first four weeks that the school is in operation each school year, except that an afterschool care program operating year round shall be reviewed during the first four weeks of its initial year of operation, once more during its first

year of operation, and twice each school year thereafter; and

(8) Comply with all requirements of this part, except that, claims for reimbursement need not be based on "point of service" meal supplement counts (as required by § 210.9(b)(9)).

8. In § 210.10:

a. The section title is revised.

b. Paragraph (b) is amended by adding a new sentence at the end of the paragraph.

c. A new paragraph (j) is added:

The additions read as follows:

§ 210.10 Meal components and quantities.

(b) * * * The component requirements for meal supplements served under the CACFP shall also apply to meal supplements served by eligible school food authorities in afterschool care programs under the NSLP.

(j) *Supplemental food.* Eligible schools operating afterschool care programs may be reimbursed for one meal supplement served to an eligible child (as defined in § 210.2) per day.

(1) Eligible schools mean schools that:

(i) Operate school lunch programs under the National School Lunch Act;

(ii) Sponsor afterschool care programs as defined in § 210.2; and

(iii) Were participating in the CACFP as of May 15, 1989.

(2) Meal supplements shall contain two different components from the following four:

(i) A serving of fluid milk as a beverage, or on cereal, or used in part for each purpose;

(ii) A serving of meat or meat alternate. Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and

coconuts are excluded and shall not be used as meat alternates due to their low protein content. Nut or seed meals or flours shall not be used as a meat alternate except as defined in this part under Appendix A: Alternate Foods for Meals;

(iii) A serving of vegetable(s) or fruit(s) or full-strength vegetable or fruit juice, or an equivalent quantity of any combination of these foods. Juice may not be served when milk is served as the only other component;

(iv) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or a serving of cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or an equivalent quantity of any combination of these foods.

(3) Infant supplements shall contain the following:

(i) Birth through 3 months: 4-6 fluid ounces of infant formula.

(ii) 4 through 7 months: 4-6 fluid ounces of infant formula.

(iii) 8 through 11 months: 2-4 fluid ounces of infant formula or whole fluid milk or full strength fruit juice; 0-1/2 slice of crusty bread or 0-2 cracker type products made from whole-grain or enriched meal or flour that are suitable for an infant for use as a finger food when appropriate. To improve the nutrition of participating children over one year of age, additional foods may be served with the meal supplements as desired.

The minimum amounts of food components to be served as meal supplements as set forth in paragraph (j)(3) of this section are as follows. Select two different components from the four listed. (Juice may not be served when milk is served as the only other component.)

MEAL SUPPLEMENT CHART FOR CHILDREN

Snack (supplement) for children	Children 1 and 2	Children 3 through 5	Children 6 through 12
(Select 2 different components from the 4 listed):			
Milk, fluid	1/2 cup	1/2 cup	1 cup.
Meat or meat alternate *	1/2 ounce	1/2 ounce	1 ounce.
Juice or fruit or vegetable	1/2 cup	1/2 cup	3/4 cup.
Bread and/or cereal:			
Enriched or whole grain bread or	1/2 slice	1/2 slice	1 slice.
Cereal:			
Cold dry or	1/4 cup ¹	1/5 cup ²	3/4 cup. ³
Hot cooked	1/4 cup	1/4 cup	1/2 cup.

¹ 1/4 cup (volume) or 1/5 ounce (weight), whichever is less

² 1/5 cup (volume) or 1/5 ounce (weight), whichever is less.

³ 3/4 cup (volume) or 1 ounce (weight), whichever is less.

⁴ Yogurt may be used as meat/meat alternate in the snack only. You may serve 4 ounces (weight) or ½ cup (volume) of plain, or sweetened and flavored yogurt to fulfill the equivalent of 1 ounce of the meat/meat alternate component. For younger children, 2 ounces (weight) or ¼ cup (volume) may fulfill the equivalent of ½ ounce of the meat/meat alternate requirement.

Caution: Children under five years of age are at the highest risk of choking. USDA recommends that nuts and/or seeds be served to them ground or finely chopped in a prepared food.

SUPPLEMENTS FOR INFANTS

Birth through 3 months	4 months through 7 months	8 months through 11 months
4-6 fluid ounces formula. ¹	4-6 fluid ounces formula. ¹	2-4 fluid ounces formula, ¹ breast milk, ⁴ whole milk or fruit juice. ² 0-½ slice bread or 0-2 crackers (optional). ³

¹ Shall be iron-fortified infant formula.

² Shall be full-strength fruit juice.

³ Shall be from whole-grain or enriched meal or flour.

⁴ Breast milk provided by the infant's mother may be served in place of formula from birth through 11 months. Meals containing only breast milk are not reimbursable. Meals containing breast milk served to infants 4 months or older may be claimed when the other meal component(s) is supplied by the child care facility.

9. In § 210.23:

Paragraph (a) is amended by adding the words "and meal supplements" after the word "lunches" wherever it appears in the text.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

1. The authority citation for part 235 continues to read as follows:

Authority: Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

2. In § 235.4, paragraph (a) is amended by removing the words "sections 3 and 4" in the first sentence and by adding the words "sections 3, 4 and 17A" in their place.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

1. The authority citation for part 245 continues to read as follows:

Authority: Secs. 3, 4, and 10 of the Child Nutrition Act of 1966, 80 Stat. 885, 886, 889, as amended (42 U.S.C. 1772, 1773, 1779); Secs. 2-12, 60 Stat. 230, as amended (42 U.S.C. 1751-60).

2. In § 245.2, paragraph (f) is amended by adding the words "or meal supplement" after the word "lunch".

Dated: July 30, 1993.

George A. Braley,
Acting Administrator, Food and Nutrition
Service.

[FR Doc. 93-19108 Filed 8-9-93; 8:45 am]

BILLING CODE 3410-30-M